

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

GIL CROSTHWAITE, et al.,

No. C 04-02077 CRB

Plaintiffs,

**ORDER OF DISMISSAL**

v.


AVOCA TRUCKING & EXCAVATING,  
INC., et al.,

Defendants.

Now pending before the Court is Magistrate Judge James' Report and Recommendation recommending that this action be dismissed for lack of prosecution. After considering the recommendation and the history of this case, the Court adopts the Report and Recommendation and DISMISSES this action pursuant to Federal Rule of Civil Procedure 41 for a failure to prosecute.

**IT IS SO ORDERED.**

Dated: December 5, 2005

  
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CHARLES R. BREYER  
UNITED STATES DISTRICT JUDGE